



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

COMMISSION FOR EMPLOYMENT EQUITY (CEE)

Private Bag X117, Pretoria, 0001, Tel: (012) 309 4040, Fax: (012) 309 4739

Enq: N Mamashela
Tel: 0829071915

Attention: All Chief Executive Officers/ Accounting Officers

Copy: All Assigned EE Senior Managers

Dear All Designated employers

IMPORTANT NOTICE: GUIDANCE REGARDING THE RESPONSE TO THE IMPACT OF COVID19 CORONAVIRUS PANDEMIC ON THE IMPLEMENTATION OF EMPLOYMENT EQUITY IN THE LABOUR MARKET

The Commission for Employment Equity (CEE) as per Section 30 of the Employment Equity Act of 1998 (the EEA), is mandated to advise the Minister on codes of good practice, regulations, policy and any other matter concerning the EEA.

The CEE recognises the catastrophic impact of the COVID19 on the various sectors of the economy, including the threat posed by the pandemic on the economic growth, job creation and retention. The CEE acknowledges the fact that it will be business unusual as all organisations will be exploring various COVID19 Response and Recovery Plans with regard to Business Continuity.

Therefore, in the midst of all the organisational configuration processes, the CEE concedes that it would be inevitable that the achievement of the initially planned annual employment equity targets would not be left unscathed.

In response to the inevitable consequences of the COVID19 on organisations and in particular, on the implementation of employment equity in the various workplaces, the CEE request all designated employers to take into account the following guidelines:

1. All employers are reminded that they are still legally obligated to comply with all the provisions of all employment laws during their organisational restructuring/ configuration processes to ensure that there is no unfair treatment and unfair discrimination policies and practices against all employees.
2. All designated employers are requested to strive not to reverse the previously attained transformation gains, including to where reasonably practical, achieve their initially planned annual EE targets for 2020. In instances that it is practically not possible to maintain and achieve the initially planned EE targets, the employers may consider reviewing and amending their EE Plans in consultation with the EE Consultative Forums (Sections 16

Chairperson: Ms Tabea Kabinde;

Commissioners: Ms Zodwa Ntuli, Dr Annelie Gildenhuys, Mr Puleng Tsebe, Mr Malesela Maleka, Ms Zingiswa Losi, Mr Bhabhali Ka Maphikela Nhlapo and Ms. Thembi Chagonda, Ms Shoki Tshabalala.

read with 17 of the EEA), but must document all the reasons for the changes as prescribed in the Employment Equity Regulations, 2014.

3. All designated employers are still required to submit their annual EE Reports as prescribed by Section 21 of the EEA and the EE Regulations, 2014 from 1 September 2020 until 15 January 2021. This EE data is critical in assessing the impact of the COVID19 on the transformation agenda of the labour market and society as a whole. There is no legal provision for exemptions, condonations or appeals in the EEA for submission of EE Reports.
4. However, in instances where the designated employer is unable to submit an EE Report as per Section 21 of the EEA, such an employer must notify the Director-General of Department of Employment and Labour in writing with reasons before the last working day of August of 2020 as prescribed by Section 21(4A) of the EE Amendment Act, 2013 and the EEA14 form in the EE Regulations, 2014.

The reasons that can be advanced as per the EEA14 form, include, Section 197 of the LRA; Mergers/ Acquisitions; Labour Court Order; Liquidations/ Judicial Winding; Insolvency; and Other reasons (e.g. employer no longer designated because of size and/ turnover, or company closed down because of retrenchments, or company under business rescue, etc.).

All completed EEA14 forms must be accompanied by supporting documents as proof and must be emailed to ntsoaki.mamashela@labour.gov.za; lucia.rayner@labour.gov.za; tshililo.siobo@labour.gov.za; before the last working day of August 2020. Guidelines on how to process DG Notifications and the EEA14 form are available on www.labour.gov.za

Yours sincerely



MS TABEA KABINDE
CHAIRPERSON: COMMISSION FOR EMPLOYMENT EQUITY

DATE: 4 May 2020

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